

FIRST REGULAR SESSION

# HOUSE BILL NO. 708

## 91ST GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES RIBACK WILSON (25), BARRY, HOSMER,  
WILLIAMS (Co-sponsors), COPENHAVER AND FOLEY.

Read 1<sup>st</sup> time February 8, 2001, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

1744L.011

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### AN ACT

To repeal sections 210.104, 210.107 and 307.178, RSMo 2000, and to enact in lieu thereof three new sections relating to child restraint systems.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 210.104, 210.107 and 307.178, RSMo 2000, are repealed and three  
2 new sections enacted in lieu thereof, to be known as sections 210.104, 210.107 and 307.178, to  
3 read as follows:

210.104. 1. **As used in sections 210.104 to 210.107, the following terms shall mean:**

2 (1) **"Child booster seat", a specially designed seating system which meets the**  
3 **Federal Motor Vehicle Safety Standards set forth in 49 C.F.R. 571.213, as amended, that**  
4 **is designed to elevate a child to properly sit in a federally approved safety belt system;**

5 (2) **"Child passenger restraint system", a specially designed seating system which**  
6 **meets the Federal Motor Vehicle Safety Standards set forth in 49 C.F.R. 571.213, as**  
7 **amended, and which is either permanently affixed to a motor vehicle or is affixed to such**  
8 **vehicle by a safety belt or a universal attachment system;**

9 (3) **"Driver", a person who drives or is in actual physical control of a motor vehicle;**

10 (4) **"Motor vehicle", any motor vehicle having a gross vehicle weight of ten**  
11 **thousand pounds or less that is required to be equipped with safety belts by the Federal**  
12 **Motor Vehicle Safety Standard No. 208.**

13 2. Every person transporting a child under the age of [four] **sixteen** years shall be  
14 responsible, when transporting such child in a motor vehicle operated by that person on the  
15 streets or highways of this state, for providing for the protection of such child. [Such child shall

**EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

16 be protected by a child passenger restraint system approved by the department of public safety.

17       2.] **3. For children less than four years of age regardless of weight or for children**  
18 **weighing less than forty pounds regardless of age, a child passenger restraint system**  
19 **appropriate for that child shall be used. If the child is at least four years of age but less**  
20 **than eight years of age or weighs at least forty pounds but less than eighty pounds, the**  
21 **child shall be properly restrained in a properly secured child booster seat.**

22       **4.** Any person who violates this section is guilty of an infraction and, upon conviction,  
23 may be punished by a fine of not more than [twenty-five] **one hundred** dollars and court costs.

24       **5. Every car rental agency doing business in the state of Missouri shall inform its**  
25 **customers of the requirements of this section and shall provide for rental an appropriate**  
26 **child passenger safety restraint system.**

27       [3.] **6.** The provisions of sections 210.104 to 210.107 shall not apply to any public carrier  
28 for hire.

210.107. The department of public safety shall initiate and develop a program of public  
2 information to develop understanding of, and ensure compliance with the provisions of sections  
3 210.104 to 210.107. The department of public safety shall, within thirty days of [September 28,  
4 1983] **August 28, 2001**, promulgate standards for the performance, design, and installation of  
5 passenger restraint systems for children [under four years of age] **less than sixteen years of age**  
6 in accordance with federal motor vehicle safety standards and shall approve those systems which  
7 meet such standards. No rule or portion of a rule promulgated under the authority of sections  
8 210.104 to 210.107 shall become effective unless it has been promulgated pursuant to the  
9 provisions of [section 536.024] **chapter 536**, RSMo.

307.178. 1. As used in this section, the term "passenger car" means every motor vehicle  
2 designed for carrying ten persons or less and used for the transportation of persons; except that,  
3 the term "passenger car" shall not include motorcycles, motorized bicycles, motor tricycles and  
4 trucks with a licensed gross weight of twelve thousand pounds or more.

5       2. Each driver, except persons employed by the United States Postal Service while  
6 performing duties for that federal agency which require the operator to service postal boxes from  
7 their vehicles, or which require frequent entry into and exit from their vehicles, and front seat  
8 passenger of a passenger car manufactured after January 1, 1968, operated on a street or highway  
9 in this state, and persons less than eighteen years of age operating or riding in a truck, as defined  
10 in section 301.010, RSMo, on a street or highway of this state shall wear a properly adjusted and  
11 fastened safety belt that meets federal National Highway, Transportation and Safety Act  
12 requirements; except that, a child less than [four] **sixteen** years of age shall be protected as  
13 required in section 210.104, RSMo. No person shall be stopped, inspected, or detained solely  
14 to determine compliance with this subsection. The provisions of this section shall not be

15 applicable to persons who have a medical reason for failing to have a seat belt fastened about  
16 their body, nor shall the provisions of this section be applicable to persons while operating or  
17 riding a motor vehicle being used in agricultural work-related activities. Noncompliance with  
18 this subsection shall not constitute probable cause for violation of any other provision of law.

19         3. Each driver of a motor vehicle transporting a child four years of age or more, but less  
20 than sixteen years of age, shall secure the child in a properly adjusted and fastened [safety belt]  
21 **restraint appropriate for the child's age and weight.**

22         4. In any action to recover damages arising out of the ownership, common maintenance  
23 or operation of a motor vehicle, failure to wear a safety belt in violation of this section shall not  
24 be considered evidence of comparative negligence. Failure to wear a safety belt in violation of  
25 this section may be admitted to mitigate damages, but only under the following circumstances:

26         (1) Parties seeking to introduce evidence of the failure to wear a safety belt in violation  
27 of this section must first introduce expert evidence proving that a failure to wear a safety belt  
28 contributed to the injuries claimed by plaintiff;

29         (2) If the evidence supports such a finding, the trier of fact may find that the plaintiff's  
30 failure to wear a safety belt in violation of this section contributed to the plaintiff's claimed  
31 injuries, and may reduce the amount of the plaintiff's recovery by an amount not to exceed one  
32 percent of the damages awarded after any reductions for comparative negligence.

33         5. Each driver who violates the provisions of subsection 2 or 3 of this section is guilty  
34 of an infraction for which a fine not to exceed [ten] **one hundred** dollars may be imposed. All  
35 other provisions of law and court rules to the contrary notwithstanding, no court costs shall be  
36 imposed on any person due to a violation of this section. In no case shall points be assessed  
37 against any person, pursuant to section 302.302, RSMo, for a violation of this section.

38         6. The department of public safety shall initiate and develop a program of public  
39 information to develop understanding of, and ensure compliance with, the provisions of this  
40 section. The department of public safety shall evaluate the effectiveness of this section and shall  
41 include a report of its findings in the annual evaluation report on its highway safety plan that it  
42 submits to NHTSA and FHWA pursuant to 23 U.S.C. 402.

43         [7. If there are more persons than there are seat belts in the enclosed area of a motor  
44 vehicle, then the driver and passengers are not in violation of this section.]